

FILED
MAY 07 2009
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

RON GLICK,)	CV 09-52-M-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MARA PELTON, aka MARA)	
NEZATSKI, TIM HARRIS, RAY)	
EVERT, EARL EVERT, aka)	
ESTATE OF EARL EVERT, and)	
DOES ONE THROUGH FIVE,)	
)	
Defendants.)	

Plaintiff Glick has filed a Complaint and a motion to remove an action previously filed in state court to United States District Court. United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on April 15, 2009. Glick did not object and therefore is not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-

Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

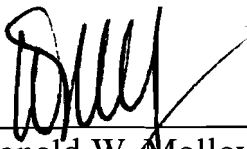
Glick has filed a Complaint, which he previously filed in Montana state district court, as well as an attached motion to remove the action to federal court. The Complaint alleges claims based on the dissolution of a partnership and the distribution of assets. Judge Lynch found that Glick’s Complaint should be dismissed for lack of subject matter jurisdiction. All of the claims asserted by Glick relate to state law, and the Defendants are Montana residents. Therefore, he cannot establish diversity jurisdiction. 28 U.S.C. § 1332. There is no other possible basis for federal jurisdiction over the claims. Further, as Judge Lynch noted, only a defendant may remove an action from state court to federal court. 28 U.S.C. §§ 1441, 1446. Therefore, I agree with Judge Lynch that the Court has no jurisdiction over Glick’s Complaint, and it must be dismissed. Upon review, I find no clear error in Judge Lynch’s Findings and Recommendation.

IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (dkt #4) are adopted in full. The Complaint (dkt # 2) is

DISMISSED for lack of jurisdiction.

The Clerk is directed to enter by separate document a judgment of dismissal and to close the case.

DATED this 7th day of May, 2009.



Donald W. Molloy, District Judge
United States District Court

